

AMENDED IN SENATE JUNE 27, 2016

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN ASSEMBLY MAY 9, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 13, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1954

Introduced by Assembly Member Burke

February 12, 2016

An act to add Section 1367.31 to the Health and Safety Code, and to add Section 10123.202 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL’S DIGEST

AB 1954, as amended, Burke. Health care coverage: reproductive health care services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance.

This bill would prohibit every health care service plan contract or health insurance policy issued, amended, renewed, or delivered on or after January 1, 2017, with exceptions, from requiring an enrollee or insured to receive a referral in order to receive reproductive or sexual health care services, as provided. Because a willful violation of these

provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Direct Access to Reproductive Health Care Act.

3 SEC. 2. (a) The Legislature hereby finds and declares all of
4 the following:

5 (1) For many women, reproductive health care may be the only
6 contact they have with the health care system.

7 (2) According to the Guttmacher Institute, one-half of all
8 pregnancies in the United States each year, more than three million
9 pregnancies, are unintended. By 45 years of age, more than one-half
10 of all women in the United States will have experienced an
11 unintended pregnancy, and 3 in 10 will have had an abortion.

12 (3) The inability to access comprehensive reproductive health
13 care in a timely manner can lead to negative health outcomes,
14 including increased risk for unintended pregnancy, sexually
15 transmitted diseases, and delayed care for critical and time-sensitive
16 reproductive health services.

17 (4) Providing timely access to comprehensive reproductive
18 health services is cost effective.

19 (5) California has a long history of, and commitment to,
20 expanding access to services that aim to reduce the risk of
21 unintended pregnancies, improve reproductive and sexual health
22 outcomes, and reduce costs.

23 (6) Recognizing the importance of timely access to
24 comprehensive reproductive and sexual health care services, the
25 Legislature and the United States Congress passed measures to
26 enable women to access care provided by an obstetrician and
27 gynecologist without a referral. Despite these advances, there are
28 wide variances in health benefit plans regarding referral

1 requirements for reproductive and sexual health care services, and
2 women across the state are obtaining these vital services from
3 other licensed provider types, including family practice physicians,
4 nurse practitioners, physician assistants, and certified
5 nurse-midwives.

6 (b) It is hereby the intent of the Legislature in enacting this act
7 to build on current state and federal law to increase timely, equal,
8 and direct access to time-sensitive and comprehensive reproductive
9 and sexual health care services for enrollees in health care service
10 plans or insureds under health insurance policies by prohibiting
11 health care service plans or insurers from requiring an enrollee or
12 insured to secure a referral from a primary care provider prior to
13 receiving in-network reproductive and sexual health care services.

14 SEC. 3. Section 1367.31 is added to the Health and Safety
15 Code, to read:

16 1367.31. (a) Every health care service plan contract issued,
17 amended, renewed, or delivered on or after January 1, 2017, shall
18 be prohibited from requiring an enrollee to receive a referral prior
19 to receiving coverage or services for reproductive and sexual health
20 care.

21 (b) (1) For the purposes of this section, “reproductive and sexual
22 health care services” are all reproductive and sexual health services
23 described in Sections 6925, 6926, 6927, and 6928 of the Family
24 Code, or Section 121020 of the Health and Safety Code, obtained
25 by a patient.

26 (2) This section applies whether or not the patient is a minor.

27 (c) In implementing this section, a health care service plan may
28 establish reasonable provisions governing utilization protocols for
29 obtaining reproductive and sexual health care services, as provided
30 for in subdivision (a), from health care providers participating in,
31 or contracting with, the plan network, medical group, or
32 independent practice association, provided that these provisions
33 shall be consistent with the intent of this section and shall be those
34 customarily applied to other health care providers, such as primary
35 care physicians and surgeons, to whom the enrollee has direct
36 access, and shall not be more restrictive for the provision of
37 reproductive and sexual health care services. An enrollee shall not
38 be required to obtain prior approval from another physician, another
39 provider, or the health care service plan prior to obtaining direct
40 access to reproductive and sexual health care services. A health

1 care service plan may establish *reasonable* provisions governing
2 communication with the enrollee's primary care physician and
3 surgeon regarding the enrollee's condition, treatment, and any
4 need for follow-up care.

5 *(d) This section shall not apply to a health care service plan*
6 *contract that does not require enrollees to obtain a referral from*
7 *their primary care physician prior to seeking covered health care*
8 *services from a specialist.*

9 ~~(d)~~

10 *(e) A health care service plan subject to this section shall not*
11 *impose utilization protocols related to contraceptive drugs,*
12 *supplies, and devices beyond the provisions outlined in Section*
13 *1367.25 of this code or Section 14132 of the Welfare and*
14 *Institutions Code.*

15 ~~(e)~~

16 *(f) This section shall not apply to specialized health care service*
17 *plan contracts or any health care service plan that is governed by*
18 *Section 14131 of the Welfare and Institutions Code.*

19 SEC. 4. Section 10123.202 is added to the Insurance Code, to
20 read:

21 10123.202. (a) Every health insurance policy issued, amended,
22 renewed, or delivered on or after January 1, 2017, excluding
23 specialized health insurance policies, shall be prohibited from
24 requiring an insured to receive a referral prior to receiving coverage
25 or services for reproductive and sexual health care.

26 (b) (1) For the purposes of this section, "reproductive and sexual
27 health care services" are all reproductive and sexual health services
28 described in Sections 6925, 6926, 6927, and 6928 of the Family
29 Code, or Section 121020 of the Health and Safety Code, obtained
30 by a patient.

31 (2) This section applies whether or not the patient is a minor.

32 (c) In implementing this section, a health insurer may establish
33 reasonable provisions governing utilization protocols for obtaining
34 reproductive and sexual health care services, as provided for in
35 subdivision (a), provided that these provisions shall be consistent
36 with the intent of this section and shall be those customarily applied
37 to other health care providers, such as primary care physicians and
38 surgeons, to whom the insured has direct access, and shall not be
39 more restrictive for the provision of reproductive and sexual health
40 care services. An insured shall not be required to obtain prior

1 approval from another physician, another provider, or the insurer
2 prior to obtaining direct access to reproductive and sexual health
3 care services. An insurer may establish *reasonable* provisions
4 governing communication with the insured's primary care
5 physician and surgeon regarding the insured's condition, treatment,
6 and any need for followup care.

7 *(d) This section shall not apply to a health insurance policy that*
8 *does not require insureds to obtain a referral from their primary*
9 *care physician prior to seeking covered health care services from*
10 *a specialist.*

11 ~~(d)~~
12 *(e) A health insurer—subject to this section—shall not impose*
13 *utilization protocols related to contraceptive drugs, supplies, and*
14 *devices beyond the provisions outlined in Section 10123.196.*

15 ~~(e)~~
16 *(f) This section shall not apply to specialized health insurance,*
17 *Medicare supplement insurance, short-term limited duration health*
18 *insurance, CHAMPUS supplement insurance, or TRI-CARE*
19 *supplement insurance, or to hospital indemnity, accident-only, or*
20 *specified disease insurance.*

21 SEC. 5. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.